

“(E) The Attorney General.

“(F) The Secretary of Commerce.

“(G) The Director of the Office of Management and Budget.

“(H) The United States Trade Representative.

“(I) The Chairman of the Council of Economic Advisors.

“(J) The Director of the Office of Science and Technology Policy.

“(3) CHAIRPERSON.—The Secretary of the Treasury shall be the Chairperson of the Committee.

“(4) OTHER MEMBERS.—The Chairperson of the Committee shall involve the heads of such other Federal agencies, the Assistant to the President for National Security Affairs, and the Assistant to the President for Domestic Policy in any investigation under subsection (a) as the Chairperson determines to be appropriate on the basis of the facts and circumstances of the transaction under investigation.

“(5) ROLE OF THE DIRECTOR OF NATIONAL INTELLIGENCE.—The Director of National Intelligence shall provide appropriate intelligence analysis and intelligence briefings to the Committee.

“(d) ACTION BY THE PRESIDENT.—

“(1) IN GENERAL.—No proposed or pending acquisition, merger, or takeover, of a person engaged in interstate commerce in the United States by or with foreign persons may occur unless the President, on the basis of an investigation and report by the Committee, finds that such acquisition, merger or takeover, will not threaten to impair the national security of the United States, as defined by regulations prescribed pursuant to this section, and approves the transaction.

“(2) ENFORCEMENT.—The President shall direct the Attorney General to seek appropriate relief, including divestment relief, in the district courts of the United States in order to implement and enforce—

“(A) any finding, action, or determination under this section of disapproval of an acquisition, merger, or takeover; or

“(B) any conditions imposed on any approval of any acquisition, merger, or takeover.

“(3) FINALITY OF DETERMINATIONS.—All actions and determinations under this section shall be final and not subject to judicial review.

“(e) FINDINGS BY THE PRESIDENT.—

“(1) IN GENERAL.—A finding under this section of impairment or threatened impairment to national security shall be based on credible evidence that leads the President to believe that—

“(A) the foreign interest exercising control might take action that threatens to impair the national security; and

“(B) other provisions of law do not provide adequate and appropriate authority for the President to protect the national security.

“(2) FACTORS TO BE CONSIDERED.—Any investigation under this section shall take into account the following factors:

“(A) Domestic production needed for projected national defense requirements.

“(B) The capability and capacity of domestic industries to meet national defense requirements, including the availability of human resources, products, technology, materials, and other supplies and services.

“(C) The control of domestic industries and commercial activity by foreign citizens as it affect the capability and capacity of the United States to meet the requirements of national security.

“(D) The potential effects of the proposed or pending transaction on sales of military goods, equipment, or technology to any country—

“(i) identified by the Secretary of State—

“(I) under section 6(j) of the Export Administration Act of 1979, as a country that supports terrorism;

“(II) under section 6(l) of the Export Administration Act of 1979, as a country of concern regarding missile proliferation; or

“(III) under section 6(m) of the Export Administration Act of 1979, as a country of concern regarding the proliferation of chemical and biological weapons; or

“(ii) listed under section 309(c) of the Nuclear Non-Proliferation Act of 1978 on the ‘Nuclear Non-Proliferation-Special Country List’ (15 C.F.R. Part 778, Supplement No. 4) or any successor list.

“(E) The potential effects on the proposed or pending transaction on United States international technological leadership in areas affecting United States national security.

“(f) REPORT TO THE CONGRESS.—Upon making any determination to approve or disapprove any merger, acquisition, or takeover by or with any foreign person which could result in foreign control of any person engaged in interstate commerce in the United States, the President shall immediately transmit to the Secretary of the Senate and the Clerk of the House of Representatives a written report of the President’s determination under this section to approve or disapprove such merger, acquisition, or takeover, including a detailed explanation of the finding made and factors considered.

“(g) CONGRESSIONAL ACTION.—

“(1) IN GENERAL.—If the determination of the President contained in the report transmitted to the Congress under subsection (f) is that the President will approve any merger, acquisition, or takeover under subsection (d) and not later than 30 days after the date on which Congress receives the report, a joint resolution described in paragraph (2) is enacted into law, then the President shall take such action under subsection (d) as is necessary to prohibit the merger, acquisition, or takeover, including, if such acquisition has been completed, directing the Attorney General to seek divestment or other appropriate relief in the district courts of the United States.

“(2) JOINT RESOLUTION DESCRIBED.—For purposes of paragraph (1), the term ‘joint resolution’ means a joint resolution of the Congress, the sole matter after the resolving clause of which is as follows: ‘That the Congress disapproves the determination of approval of the President contained in the report submitted to Congress pursuant to section 721(f) of the Defense Production Act of 1950 on _____’, with the blank space being filled with the appropriate date.

“(3) COMPUTATION OF REVIEW PERIOD.—In computing the 30-day period referred to in paragraph (1), there shall be excluded any day described in section 154(b) of the Trade Act of 1974.

“(h) REGULATIONS.—The President shall direct the issuance of regulations to carry out this section. Such regulations shall, to the extent possible, minimize paperwork burdens and shall to the extent possible coordinate reporting requirements under this section with reporting requirements under any other provision of Federal law.

“(i) EFFECT ON OTHER LAW.—No provision of this section shall be construed as altering or affecting any existing authority, power, process, regulation, investigation, enforcement measure, or review provided by any other provision of law.

“(j) TECHNOLOGY RISK ASSESSMENTS.—In any case in which an assessment of the risk of diversion of defense critical technology is performed by the Committee or any other designee of the President, a copy of such assessment shall be provided to any other designee of the President responsible for review-

ing or investigating a merger, acquisition, or takeover under this section.

“(k) BIENNIAL REPORT ON CRITICAL TECHNOLOGIES.—

“(1) IN GENERAL.—In order to assist the Congress in its oversight responsibilities with respect to this section, the President and such agencies as the President shall designate shall complete and furnish to the Congress, not later than May 1, 2007, and upon the expiration of every 2 years thereafter, a report, both in classified and unclassified form, which—

“(A) evaluates whether there is credible evidence of a coordinated strategy by 1 or more countries or companies to acquire United States companies involved in research, development, or production of critical technologies for which the United States is a leading producer; and

“(B) evaluates whether there are industrial espionage activities directed or directly assisted by foreign governments against private United States companies aimed at obtaining commercial secrets related to critical technology.

“(2) DEFINITION.—For the purposes of this subsection, the term ‘critical technologies’ means technologies identified under title VI of the National Science and Technology Policy, Organization, and Priorities Act of 1976 or other critical technology, critical components, or critical technology items essential to national defense or security identified pursuant to this section.

“(1) BIENNIAL REPORT ON CRITICAL INFRASTRUCTURE.—In order to assist the Congress in its oversight responsibilities, the President and such agencies as the President shall designate shall complete and furnish to the Congress, not later than 90 days after the date of enactment of this subsection and upon the expiration of every 2 years thereafter, a report, both in classified and unclassified form, which—

“(1) lists all critical infrastructure, as defined under subtitle B of title II of Public Law 107-296, that is owned, controlled or dominated by an alien, a foreign corporation, or a foreign government;

“(2) evaluates whether there is credible evidence of a coordinated strategy by 1 or more countries or companies to acquire United States critical infrastructure; and

“(3) evaluates whether there are industrial espionage activities directed or directly assisted by foreign governments against private United States companies controlling critical infrastructure.”

(b) The amendments made by subsection (a) shall apply to the review and investigation of any acquisition, merger, or takeover which is or becomes subject to section 721 of the Defense Production Act of 1950 (50 U.S.C. App. 2170) (as in effect immediately before the date of the enactment of this Act or on or after such date) that has not become final before the date of the enactment of this Act.

(b) Amendment offered by Representative Kaptur:

AN AMENDMENT OFFERED MS. KAPTUR TO THE FY 2006 EMERGENCY SUPPLEMENTAL APPROPRIATIONS BILL

On page 80, after line 19, insert the following:

TITLE IV—ESTABLISHMENT OF A “TRUMAN” INVESTIGATIVE COMMITTEE TO PROTECT AGAINST WASTE, FRAUD, AND ABUSE RELATED TO CONTRACTS FOR THE GLOBAL WAR ON TERRORISM AND HURRICANES KATRINA AND RITA REBUILDING EFFORTS

SEC. 1. There is hereby created a select committee on the model of the Truman Committee to investigate the awarding and carrying out of contracts to conduct military